IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 276 of 2001

JAGRUTIBEN AMBALAL PATEL

Versus

YATINBHAI LALBHAI PATEL

Appearance:

1. Misc.Civil Application No. 276 of 2001

MR BG JANI for Petitioner No. 1

MS NIRALI B MUNSHI for Respondent No. 1

CORAM : MR.JUSTICE KUNDAN SINGH

Date of Order: 10/04/2003

ORAL ORDER

This is an application for transfer of H.M.P. No. 1 of 2000 (divorce petition), pending before the Civil Judge (SD), Navsari to the District Court (SD), Gandhinagar where H.M.P. No. 1/2000 for restitution of conjugal filed by the petitioner is pending.

The contention of the learned counsel for the petitioner is that the respondent - husband has instituted proceedings for divorce before the Civil Judge (SD), Navsari. The petitioner being a lady has to attend the said proceedings at Navsari Court and for that purpose she required to travel for Navsari and she has to be accompanied by her old father who is aged about 76 years old. Under these circumstances proceedings of H.M.P. No. 1/2000 pending before the Civil Judge (SD), Navsari are required to be transferred to District Court, Gandhinagar.

On the contrary, learned counsel for the respondent pointed out that the present petitioner has been granted interim alimony of Rs.2000/- p.m. as well as Rs.500/- to attend the court proceedings on each adjourned date fixed by the Court at Navsari. She has further submitted that in the proceedings pending at

Navsari Court, part of the evidence has been recorded and part of the evidence has yet to be recorded and the proceedings are at the likely to be completed. Therefore, at this stage, the present application deserves to be rejected.

I have carefully considered the contentions raised by the learned counsel for the parties and perused the material on record.

In the present the petitioner has been granted Rs.2000/- p.m towards interim alimony and Rs.500/- for attending the Court at Navasari on the adjourned date fixed by the Court. There is no allegation from the petitioner that she petitioner has apprehension there is danger to her life at the time of adjourning the proceedings at Navsari Court. Therefore, there is no good ground for transfer of the H.M.P. No.1/2000 from the Court of Civil Judge (SD), Navsari to District Court, Gandhinagar. Accordingly, this application is dismissed. Rule is discharged, with no order as to costs. Interim relief granted by this Court stands vacated forthwith.

In the last, learned counsel for the petitioner requested this Court to stay operation and execution of the above order for a period of two weeks to approach the higher forum. Considering the facts and circumstances of this case, I do not find good ground for acceding the request of the learned counsel for the petitioner and hence the said is refused.

(Kundan Singh, J,)

/JVSatwara/